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JUL 02 2020

BARBER & ASSOCIATES, LLC

AFFIDAVIT - RETURN OF SERVICE

JOEL MUMEY

Plaintiff(s),

Case Number: 3HO-20-00083 CI

FILE STAMP

vs.

STATE OF ALASKA AND JUSTIN S. HILARIO

Defendant(s).

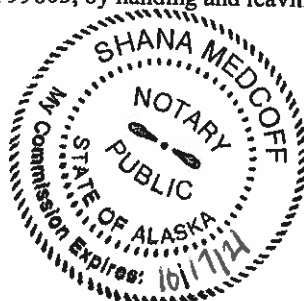
I solemnly swear or affirm that on 6/28/2020, at 11:58 AM, I served the following documents:

SUMMONS AND NOTICE TO BOTH PARTIES OF JUDICIAL ASSIGNMENT, LETTER, COMPLAINT

upon the therein named JUSTIN S. HILARIO at MEETING PLACE: HOMER POST OFFICE, 3658 HEATH STREET, HOMER, ALASKA 99603, by handing and leaving a true and correct copy with JUSTIN S. HILARIO.

Process Server Notes:

RESEARCH



Ann E. Hoffman
ANN E. HOFFMAN

Civilian Process Server

SUBSCRIBED AND SWORN to or affirmed before me this June 30, 2020 in Soldotna, Alaska.

Shana Medcoff
Notary Public in and for the State of Alaska
My Commission Expires: 10/17/21

Client: BARBER & ASSOCIATES, LLC

Client Contact: ANGIE MILLER

File Number:

North Country Process, Inc.

P.O. Box 101126

Anchorage, Alaska 99510

Office: (907) 274-2023

Fax Line: (907) 274-2823

NCPI@alaska.net

Return No.: 193900

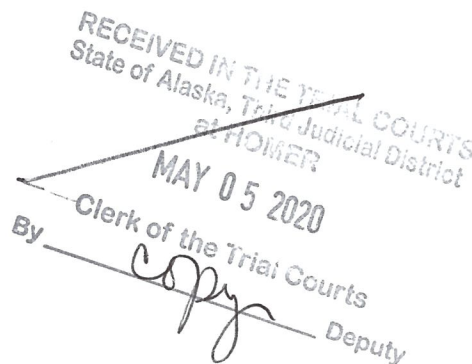
Service Fee [Rule 11(a)(1)(i/ii)]:	\$45.00
Mileage Fee [Rule 11(a)(7)]:	\$20.00
Fee for Excess Mileage [Rule 11(a)(7)]:	\$69.00
Total miles traveled to obtain service:	163
Fee for Excess Hours [Rule 11(a)(1)(iii)]:	\$37.50
Total hours to obtain service:	3.25

Total Recoverable Fees per Admin Rule 11:	\$171.50
Research Fee:	\$30.00
Non-Recoverable Tax:	\$13.46
Total Non-Recoverable Fees per Admin Rule 11:	\$43.46
Total Service Fees:	\$214.96

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Exhibit 2
Page 1 of 1

Jeff Barber
Barber & Associates, LLC
540 E 5th Ave.
Anchorage, AK 99501
(907) 276-5858
jeffb@alaskainjury.com
Attorneys for Plaintiff



IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT IN HOMER

JOEL MUMEY,)
)
Plaintiff,)
)
vs.)
)
STATE OF ALASKA, DEPT OF)
LAW and JUSTIN S. HILARIO,)
)
Defendants.)

Case No. 34b-20-00083C1

COMPLAINT

The plaintiff JOEL MUMEY, by and through his attorneys Barber & Associates, LLC, and for his Complaint against STATE OF ALASKA, DEPT. OF LAW and JUSTIN S. HILARIO, hereby state and allege as follows:

THE PARTIES

1. At all times material hereto, the plaintiff was and is a resident of Ninilchick, Alaska.
2. At all times material hereto, the State of Alaska is a sovereign entity that has

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consented to be sued through the Legislature's adoption of a statute.

3. At all times material hereto, JUSTIN HILARIO was and is an Alaska State Trooper and a resident of the Third Judicial District.

4. At all times material hereto, Justin Hilario was acting under color of law as an Alaska State Trooper.

JURISDICTION & VENUE

5. This Court has jurisdiction over this matter pursuant to AS 22.10.020.

6. Venue is proper because Plaintiff's cause of action accrued within the third judicial district.

GENERAL ALLEGATIONS

7. On June 29, 2019, Justin Hilario used excessive force when arresting the plaintiff in Ninilchik and transporting him to Homer, Alaska, causing serious injury to the plaintiff for which the defendants are liable.

8. The State is liable for the actions and/or failures to act of its employees under theories of vicarious liability and/or agency and/or respondeat superior.

9. At all times material hereto, Justin Hilario was employed by the State.

10. The Fourth Amendment guarantees the right to be free from unreasonable seizure.

11. The Eighth Amendment guarantees the right to be free from cruel and unusual punishment.

12. The defendants owed a duty to exercise reasonable care toward the plaintiff.
13. Justin Hilario was required to use reasonable force when handcuffing and handling the plaintiff.
14. Justin Hilario's negligence and/or gross negligence and/or recklessness and/or malicious conduct was a substantial factor in causing harm to the plaintiff for which the defendants are liable.
15. Justin Hilario was an agent of the State of Alaska.
16. Justin Hilario was acting under color of law in the course and scope of his duties for the State of Alaska and acting pursuant to its policies, customs and practices when he engaged in excessive force;
17. Justin Hilario was trained, and/or supervised and/or taught that using excessive force was objectively unreasonable and in violation of the plaintiff's rights;
18. Justin Hilario's handcuffing and handling the plaintiff was so forceful that he caused a left wrist radial styloid fracture and left shoulder injury to the plaintiff.
19. Justin Hilario's actions with respect to the plaintiff was offensive to human dignity;
20. The defendants are liable for actions which constitute cruel and unusual punishment in violation of the State and U.S. Constitutions and laws;
21. The defendants are liable for violating the rights of plaintiff to be free from cruel and unusual punishment guaranteed by the Alaska Constitution and the United States

Constitution, 8th Amendment to the U.S. Constitution, U.S. Statute 42 Section 1983, and United States of America Common Law.

22. The defendants are liable for violating the rights of plaintiff to be free from unreasonable seizure guaranteed by the Alaska Constitution and the United States Constitution, 4th Amendment to the U.S. Constitution, U.S. Statute 42 Section 1983, and United States of America Common Law.

23. Justin Hilario acted in a manner which was unreasonable because it created a great and unjustified and unnecessary danger of serious bodily injury of the plaintiff resulting in harm in violation of the plaintiff's constitutional rights;

24. The defendants engaged in reckless and capricious conduct that was unreasonable and/or unnecessarily dangerous and/or was with deliberate indifference and/or shocks the conscience;

25. The defendants' unreasonable, reckless, dangerous and unconstitutional actions without justification directly caused plaintiff to suffer great physical and emotional injury for which defendants are liable;

26. Justin Hilario's acts and omissions evidenced reckless disregard to the interests of plaintiffs and/or were outrageous and entitle plaintiffs to exemplary or punitive damages.

28. Justin Hilario is liable for assault and/or battery which was a substantial factor in causing harm to the plaintiff.

27. Justin Hilario's conduct with regard to the plaintiff was so egregious that any reasonable Trooper would have known this conduct was unlawful.

28. Justin Hilario's conduct regarding the plaintiff was willful, reckless, or intentional misconduct, or was done with gross negligence or malice, entitling plaintiff to damages, including punitive damages.

29. To the extent that Justin Hilario's misconduct described herein so clearly violated U.S. and Alaska law as to which he had clear notice, he was not acting within the scope of his employment, but merely under color of law.

30. The defendants are liable for past and/or future: medical expense, pain, suffering, emotional distress, loss of capacity for enjoyment of life, inconvenience, and other non-pecuniary damages to be more fully set forth at trial, all in an amount greater than \$100,000 (ONE HUNDRED THOUSAND DOLLARS), the exact amount to be set by the trier of fact.

31. The defendant Justin Hilario is liable for exemplary or punitive damages for conduct evidencing reckless disregard to the interests of the plaintiff and/or outrageous conduct.

32. The defendants are liable for full reasonable attorney fees pursuant to AS 09.17.060.

WHEREFORE, having fully pled plaintiff's complaint, the plaintiff requests a judgment against the defendants for an amount greater than \$100,000 (ONE HUNDRED

BARBER & ASSOCIATES, LLC
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THOUSAND DOLLARS) to be established by the trier of fact, plus interest, costs and attorney fees and such other relief as the court deems just.

DATED at Anchorage, Alaska this 30th day of April, 2020.

BARBER & ASSOCIATES, LLC
Attorneys for Plaintiff

By: /s/ Jeff Barber
JEFF BARBER
AK Bar #0111058